

Changes to legislation: There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Paragraph 7. (See end of Document for details)

SCHEDULE 1

[^{F1}FIXED PENALTY FOR OFFENCES UNDER SECTIONS 1, 2, 3, 4A, 4B AND 4C(5)]

Textual Amendments

- F1** Sch. 1 title substituted (2.3.2022 for specified purposes, 5.9.2022 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), ss. **20(8)(f)**, 36(2); S.S.I. 2022/43, reg. 2, sch.

Request for hearing

- 7 (1) A person to whom a fixed penalty notice has been given may, before the expiry of the period for payment of the penalty, give notice requesting a hearing in respect of the offence to which the fixed penalty notice relates.
- (2) A notice requesting a hearing under sub-paragraph (1) must be in writing and must be sent by post or delivered to the person specified under paragraph 3(2)(c) in the fixed penalty notice at the address so specified.
- (3) For the purposes of this paragraph and unless the contrary is proved, the sending of a notice by post is deemed to have been effected at the time at which the notice would be delivered in the ordinary course of post.
- (4) Where a person has requested a hearing in accordance with this paragraph—
- (a) the council must hold the hearing;
 - (b) a person authorised for the purpose by the council of the area in which the offence was committed must notify the procurator fiscal of the request; and
 - (c) the period for payment of the fixed penalty must be calculated so that the period beginning with the giving of the notice under this paragraph and ending with the receipt by the person who gave that notice of the decision reached at the hearing is left out of account.

Modifications etc. (not altering text)

- C1** Sch. 1 paras. 6-11 applied (15.5.2006) by Smoking, Health and Social Care (Scotland) Act 2005 and The Prohibition Of Smoking In Certain Premises (Scotland) Regulations 2006 (Consequential Provisions) (Scotland) Order 2006 (S.I. 2006/1115), arts. 1, **3** (with art. 4)

Commencement Information

- I1** Sch. 1 para. 7 in force at 26.3.2006 at 0600 hours by S.S.I. 2005/492, art. **3(d)**

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